IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: G. King
Serial No.: 09/496,549
For: Method and System for Handling Telecommunications Data Traffic
Filed: February 2, 2000
Group: 2662
Examiner: A. Qureshi
Att'y Dkt.: 1996 P 07613 US 04

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Brian K. Johnson — Attorney Name
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January 8, 2003 — Date of Signature

Brief on Appeal

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This brief is in support of the applicant's December 17, 2002 notice of appeal of the final rejection of the claims.

Real Party in Interest

Siemens Corporation, New York, NY.

Related Appeals and Interferences

None.

Status of Claims

Claims 32-40 are pending in this application and stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,668,857 (McHale).

The rejection of all of these claims is appealed.

Status of Amendments

No amendments were submitted after the final rejection.

Summary of the Invention

The applicant's invention obviates the passage of a data call through the switch of a central office by identifying digital data calls, i.e., a non-voice call, intercepting the call where the line terminates, and then passing it directly to a router while bypassing the switch.

More specifically, the invention "rout[es] a digital data call to a destination, where the digital data call is received on a subscriber line connected to a termination unit communicating with a switch in a central office...." Claim 32. This requires the steps of "acquiring the digital data call at the termination unit" and "routing the digital data call to the destination on a channel external to the switch" (independent method claim 32 and dependent claims 33-37).

Issue

Claims 32-40 are not anticipated by U.S. Patent No. 5,668,857 (McHale) because there is no disclosure, teaching, or suggestion in McHale to intercept a digital data call where the subscriber line terminates, nor is there any teaching or suggestion to modify McHale to do so.

Grouping of Claims

Claims 32 and 38 are independent method and apparatus claims, respectively. The applicant respectfully suggests that the method claim 32 may be relied upon to represent the group.

Argument

All of the pending claims were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,668,857 (McHale). In the office action, the applicant's claimed termination unit was equated with McHale's splitter (p. 2, claim 32; p. 3, claim 38). In the section titled "Response to Arguments," "termination unit" is mentioned (p. 4, § 4), but there is no statement or argument explaining why it is believed that McHale's splitter is equivalent and no evidence is offered to support this apparent conclusion.

A line termination unit and a splitter are very different devices. The applicant's claimed termination unit is the point in a network where the subscriber's line physically terminates. It is identified in the specification as a basic rate interface, remote line termination unit, a remote data terminal, or a subscriber line interface circuit (see, e.g., the basic rate interface 410a, p. 16, lines 18-22, and Figure 4; the remote line termination unit 508, p. 19, lines 27-37, and Figure 5).

By contrast, McHale's splitter 50 (Figure 1) does not terminate the line. Intended for DSL applications, the splitter "divides each incoming twisted pair subscriber line into twisted pair phone line and a twisted pair data line" using, for example, frequency division multiplexing techniques. Column 2, lines 31-33.

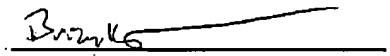
To sustain a rejection based on anticipation under 35 U.S.C. § 102, "the reference must teach every element of the claim." M.P.E.P. § 2131 (8th ed., August 2001), page 2100-69. The M.P.E.P. goes on to state "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," quoting Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Lacking the claimed "termination unit," McHale does not satisfy this standard.

Nowhere in McHale is there a disclosure, teaching, or suggestion of "acquiring the digital data call at the termination unit." Claim 32. Nor is there a "a termination unit, comprising means for acquiring the digital data call." Claim 38. Moreover, no evidence is offered to support the proposition that a splitter is equivalent to a termination unit and, given the vastly different structure and function of the two devices, there cannot be any such evidence. Without the claimed termination unit, there can be no anticipation. Finally, there is no evidence that it would be obvious to modify McHale by substituting the applicant's line termination unit for McHale's splitter and thus the applicant's claimed invention cannot be considered obvious in view of McHale.

Since the independent claims, and those dependent thereon, are neither anticipated nor rendered obvious by the art, the applicant respectfully requests that the Board reverse the examiner and direct that the application be passed to allowance.

Dated: January 8, 2003

Respectfully submitted,



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Appendix

32. A method for routing a digital data call to a destination, where the digital data call is received on a subscriber line connected to a termination unit communicating with a switch in a central office, comprising:
acquiring the digital data call at the termination unit; and
routing the digital data call to the destination on a channel external to the switch.

33. A method as set forth in claim 32 where the step of acquiring the digital data call includes the step of acquiring the call ahead of the switch.

34. A method as set forth in claim 32 where the step of acquiring the digital data call includes the step of acquiring the call ahead of a switching network.

35. A method as set forth in claim 32 where the step of acquiring the digital data call includes the step of acquiring the call ahead of a switch interface module.

36. A method as set forth in claim 32 where the step of acquiring the digital data call includes the step of acquiring the call at a basic rate interface, a remote line termination unit, a remote data terminal, or a subscriber line interface circuit.

37. A method as set forth in claim 32 further comprising:
assigning a logical identifier to the digital data call; and
associating the call with the subscriber line.

38. An apparatus for routing a digital data call to a destination, where the digital data call is received on a subscriber line connected to a termination unit communicating with a switch in a central office, comprising:
a termination unit, comprising means for acquiring the digital data call; and
a channel for routing the digital data call from the termination unit to the destination, where the channel is external to the switch.

39. An apparatus as set forth in claim 38 further comprising:
means for assigning a logical identifier to the digital data call; and
means for associating the call with the digital subscriber line.

40. An apparatus as set forth in claim 38 where the termination unit comprises a basic rate interface, remote line termination unit, a remote data terminal, or a subscriber line interface circuit.

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Notes: Attached please find the following documents:

- Brief on Appeal (4 pp)

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